

08/10/04 - Statement of Policy Regarding National Mail Voter Registration Form

ELECTION ASSISTANCE COMMISSION

STATEMENT OF POLICY REGARDING

NATIONAL MAIL VOTER REGISTRATION FORM

AGENCY: United States Election Assistance Commission.

ACTION: Statement of Policy.

SUMMARY: The Commission intends to exercise its discretion in administering the National Mail Voter Registration Form by interpreting the waiver of the effective date for implementing the Computerized Statewide Voter Registration List required by the Help America Vote Act of 2002 (HAVA) to extend to all of the requirements of subsection (a) of Section 303 of HAVA, including the requirements of paragraph (a)(5) of that section. Therefore, a State that has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006 may use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective as to that State.

DATE: August 10, 2004.

FOR FURTHER

INFORMATION

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SUPPLEMENTARY

INFORMATION:

Title III of HAVA, entitled "Uniform and Nondiscriminatory Election Technology and Administration Requirements," imposes certain requirements upon States and local jurisdictions conducting federal elections. HAVA Sections 301-303. Among other things, a State or local jurisdiction must verify voter registration information. Specifically, paragraph (a)(5) of section 303 of HAVA requires the collection of certain identifying information from applicants, or, in certain circumstances, the assignment of a unique identifying number.

HAVA further provides that the requirements of subsection (a) of section 303, including paragraph (a)(5), became effective on January 1, 2004. HAVA Section 303(d)(1)(A). However, a State could have obtained a waiver that delays the effective date until January 1, 2006. HAVA section 303(d)(1)(B). Forty-four States obtained such a waiver.

The United States Election Assistance Commission (EAC) has succeeded to the responsibilities of maintaining the National Mail Voter Registration Application Form ("Form") authorized by the National Voter Registration Act (NVRA) (Pub. L. 103-31 (May 20, 1993)) (42 U.S.C. §§ 1973gg-1973gg-10). Box 6 of the Form is labeled "ID Number – (See Item 6 in the instructions for your state)." These "State-specific instructions" provide State-by-State guidance as to what information the relevant State's law requires the applicant to provide in Box 6.

Depending upon a given State's law, Section 303(a)(5) may affect that State's specific instructions for Box 6 when Section 303(a)(5) takes effect with regard to that State. The question has arisen of whether such a State, if it has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006, may, before January 1, 2006, use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective to such a State.

The EAC intends to exercise its discretion in administering the Form by interpreting the waiver of the effective date provided in Section 303(d)(1)(B) to extend to all of the requirements of subsection (a) of Section 303, including paragraph (a)(5). Therefore, a State that has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006 may use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective as to that State.

In issuing this Statement of Policy regarding the scope of the waiver provision in Section 303(d)(1), the EAC emphasizes that it is not stating its policy with regard to the substantive requirements of Section 303(a)(5) when that paragraph becomes effective with regard to a given State. The EAC also emphasizes that this Statement of Policy is only applicable to a State that has obtained a waiver of the effective date under Section 301(d)(1), and applies only before January 1, 2006.

DeForest B. Soaries, Jr.

Chairman

U.S. Election Assistance Commission

DATED: August 10, 2004

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